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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/057,983	01/29/2002	Martin Horne	82001-0297	2439

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HOGAN & HARTSON LLP
IP GROUP, COLUMBIA SQUARE
555 THIRTEENTH STREET, N.W.
WASHINGTON, DC 20004

EXAMINER

COLON, CATHERINE M

ART UNIT	PAPER NUMBER
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3623

DATE MAILED: 04/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/057,983

Applicant(s)

HORNE, MARTIN

Examiner

C. Michelle Colon

Art Unit

3623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 January 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-16 and 18-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-16 and 18-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. The following is a Non-Final Office Action in response to the communication received on January 12, 2005. Claims 2 and 17 have been previously cancelled. Claims 1, 3-16 and 18-27 are now pending in this application.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1 and 15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The first issue is that it appears that the bodies of claims 1 and 15 are not performing what the preambles are reciting. More specifically, the preambles of the claims recite, allocating a supply of a component, and the bodies of the claims are producing a supply plan using the objective function; however, it is not clear what the output of the objective function is and how the output relates to allocating a supply component.

The second issue is that claim 1 does not expressly recite the supply planner interacting with the database to retrieve the stored variables that are required to process the objective function and produce a supply plan, thus making the database seem superfluous. As claim 1 is currently recited the database and the supply planner do not

Art Unit: 3623

appear to be communicating or connected within the system, thus making unclear the relationship between the database and the supply planner.

The third issue is that based on the specification, it is unclear what the statutory class of the supply planner is. Since claim 1 is reciting a system, it must be comprised of structural elements. Since the statutory class of the supply planner is unclear, it renders unclear the statutory class of claim 1 as a whole.

Correction is requested.

Claim Rejections - 35 USC § 101

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

5. Claims 1, 3-16 and 18-27 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The basis of this rejection is set forth in a test of whether the claimed invention has a practical application (i.e., the claimed invention must produce a useful, concrete, and tangible result). A process that merely manipulates an abstract idea or performs a purely mathematical algorithm is non-statutory despite the fact that it might inherently have some usefulness. See MPEP 2106. In the present case, since it is unclear what the objective function is outputting and how it relates to the supply plan, as discussed in the 35 U.S.C., 112, second paragraph rejection set forth above, it is unclear what the practical application of the

claimed invention is. Additionally, the statutory class of claim 1 is unclear, as discussed in the 35 U.S.C., 112, second paragraph rejection set forth above.

Accordingly, claims 1, 3-16 and 18-27 are directed to non-statutory subject matter.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Dragon et al. (U.S. 6,625,616) discusses a material requirements planning system;
- Guerindon et al. (U.S. 5,193,065) discusses a system for allocating material in a manufacturing environment;
- Natarajan (U.S. 4,887,206) discusses inventory impact analysis;
- Dietrich (U.S. 6,272,389) discusses a system for capacity allocation in an assembly environment;
- Feigin et al. (U.S. 6,006,196) discusses a method of estimating replenishment requirements in a distribution network; and
- Chavez et al. (U.S. 6,684,193) discusses multivariate allocation of resources.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to C. Michelle Tarae (formerly, C. Michelle Colon) whose

Art Unit: 3623

telephone number is 703-605-4251. The examiner can normally be reached Monday – Friday from 8:30am to 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz, can be reached at 703-305-9643.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington D.C. 20231

or faxed to:

703-872-9306	[Official Communications; including After Final communications labeled "Box AF"]
703-746-7202	[For status inquiries, draft communication, labeled "Proposed" or "Draft"]

Hand delivered responses should be brought to Crystal Park 5, 2451 Crystal Drive, Arlington, VA 7th floor receptionist.


cmc

April 1, 2005


TARIQ R. HAFIZ
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600